

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SKYLINE SOFTWARE SYSTEMS, INC.,)
Plaintiff,)
v.) CIVIL ACTION NO. 06-CV-10980 DPW
KEYHOLE, INC. and GOOGLE INC.,)
Defendants.)

)

**PLAINTIFF SKYLINE SOFTWARE SYSTEMS, INC.'S
MOTION FOR SUMMARY JUDGMENT ON INFRINGEMENT**

Plaintiff Skyline Software Systems Inc. (“Skyline”) hereby moves for summary judgment on infringement on Claims 1 and 12 of U.S. Patent No. 6,496,189 (“the ‘189 Patent”). The Court has issued two claim construction rulings defining the terms found in the ‘189 Patent claims. Based on the appropriate application of the Court’s construction and the undisputed facts, summary judgment of infringement is warranted in Skyline’s favor on the issue of infringement of Claims 1 and 12.

The assertions made by Defendants Keyhole, Inc. and Google Inc. (collectively, “Google”) and their technical expert, as to how this Court should apply its claim constructions require unreasonable leaps of logic which confuse and conflate the core elements of Skyline’s ‘189 Patent. Indeed, Google’s application of the Court’s claim construction would lead to the improbable result where the preferred embodiment is not read on the asserted claims. Based on extensive fact and expert discovery, including the depositions of and admissions by Google’s witnesses, the expert witness reports and depositions, and review of Google’s source code, summary judgment should enter in Skyline’s favor on Claims 1 and 12. Alternatively, Skyline

submits that this is an appropriate context for the application of FED. R. CIV. P. 56(d) and a determination of which, if any, of the claim elements are not appropriate for resolution at summary judgment, thereby greatly streamlining the jury trial that may be necessary for any remaining issues.

Certification Pursuant to Local Rule 7.1(A)(2)

Pursuant to Local Rule 7.1(A)(2), on January 18, 2007, Geri L. Haight, counsel for Skyline, conferred in good faith with Saundra Riley, Esq., counsel for Google in a good faith effort to resolve or narrow the issues presented in this Motion. The parties were unable to do so.

Respectfully submitted,

SKYLINE SOFTWARE SYSTEMS, INC.,

By its attorneys,

/s/ H. Joseph Hameline

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January 19, 2007

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on January 19, 2007.

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/s/ H. Joseph Hameline
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